

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NICOLE LOUISE CHAVEZ,

Plaintiff,

vs.

No. CV 16-560 SMV

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

**ORDER AWARDING ATTORNEY FEES PURSUANT TO
THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

THIS MATTER is before the Court on the Stipulation of Award of Attorney Fees under the Equal Access to Justice Act, (Doc. # 28), filed December 20, 2017, in which the parties stipulate to awarding Plaintiff EAJA fees in the amount of \$7,000.00.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$7,000.00 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See *Astrue v. Ratliff*, 560 U.S. 586, 591–93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



**UNITED STATES MAGISTRATE JUDGE
Presiding by Consent**

Submitted by:

s/Francesca J. MacDowell
Francesca J. MacDowell
Attorney for Plaintiff

Approved by email on 12/20/17 by
Thomas H. Kraus, Special AUSA
Attorney for Commissioner